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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,521	08/01/2001	Takeshi Fujita	450100-03403	6357
20999	7590	02/23/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			FELTEN, DANIEL S	
			ART UNIT	PAPER NUMBER

3624

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,521

Applicant(s)

FUJITA ET AL.

Examiner

Daniel S Felten

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Receipt of the November 29, 2004 Amendment amending claims 1-8 is acknowledged. Claims 1-10 are pending in the application and are presented to be examined upon based upon their merits.

Response to Arguments

2. Applicant's arguments filed November 29, 2004 have been fully considered but they are not persuasive. The applicant has presented the following amendments:

“...notifying an updated transaction price to the bidder client having said identification (ID) code *automatically* when a transaction price changes *due to a bid submitted by another bidder client.*” –Claim 1

“...notifying said bidder client having said ID code registered by displaying an information image in which data of an updated transaction price is superimposed on said information image *automatically* when a transaction price changes *due to a bid submitted by another bidder client.*” –Claim 2

“...notifying an updated transaction price from the network auction server to the auction support server, and *automatically* notifying said updated transaction price from the auction support server to said bidding client having said identification (ID) code when an transaction price changes in the network auction server *due to a bid submitted by another bidder client.*” –Claim 3

“...notifying an updated transaction price *automatically* to the bidder client having said identification (ID) code registered when it is notified that a transaction price in the network auction server changed *due to a bid submitted by another bidder client.*” –Claim 4

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“...notifying the bidder client corresponding to said identification code of an updated transaction price *automatically* when it is informed that a transaction price changes in the network auction server *due to a bid submitted by another bidder client*.” –Claim 5

“...notifying *a first bidder client automatically when a transaction price changes due to a bid submitted by another bidder client*.” –Claims 6 and 8

“...notifying said bidder client corresponding to said identification code registered *automatically* of an updated transaction price when a transaction price *changes due to a bid submitted by another client*.” –Claim 7

The amendments that have been presented are not considered patentable because the limitations require “notifying...automatically...” which is considered obvious because they merely provide automatic notification to replace the manual activity [see In re Venner et al., 120 USPQ 192].

Furthermore, it is submitted that references are evaluated by what they *suggest* to one that is versed in the art rather than their specific disclosure [see also In re Bozek, 163 USPQ 545 (CCPA 1969)]. In this case, the applicant is requested to consider the following passage(s) in Hess:

“...In order for the item to show up in user queries for a particular category, the seller also selects one of a number of categories 625 and chooses the most specific sub-categories from a predetermined list in a popup menu, for example. Finally, the seller may specify acceptable payment methods 630, shipping terms 640, the quantity 655 of items of this type that are available, *a minimum bid 660 per item*, and the duration 665 of the offer. (see Hess, column 7, lines 15-24)

and

“...Fig. 8 is a flow diagram illustrating item presentation according to one embodiment of the present invention. The assignee of the present invention has observed that in the context of the item presentation only a small amount of information actually needs to be changed in the HTML that is generated for various user queries. For an item presentation format, such as that illustrated in FIG. 9, *the information that varies is essentially limited to : the time title, the current minimum bid, the image, and the auction ending time.* The remainder of the web page comprises HTML interface elements that remaining constant regardless of the result of the user’s query. Consequently, according to one embodiment, *a predefined page format (referred to as the Gallery template) is employed into which the information that varies can be inserted on the fly as data is retrieved from the databases.*” (see column 8, line 55 to column 9, line, 4).

The Examiner submits that these passages suggest that the Hess transaction price is updated because Hess makes a distinction between the *minimum bid* that is initially provided by the seller from the *current minimum bid* that is being changed as part of the item presentation format (illustrated in FIG. 9). It is submitted to the applicant that the reason the minimum current bid (price) varies for an item (and consequently why the current minimum bid can be inserted on the fly) is because another bidder has previously submitted the current highest bid for a particular item which becomes the minimum bid for a subsequent bidder to acquire the item.

it is also submitted that Hess notifies the updated current minimum bid to the bidder because changes to the current minimum bid are constantly being displayed as part of the item presentation on the web page. Thus the applicant’s amendments fail to overcome the prior art due to the fact that the amendments do not present limitations beyond the scope of Hess or what one would expect from one of ordinary skill in the art.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hess et al (US 6,415, 320) and Goyal et al (US 6,466,917) in view of In re Venner et al., 120 USPQ 192.

(Please reconsider the arguments presented in Office Action dated August 17, 2004 in lieu of the the Response to Arguments above applying In re Venner and various other cited passages in Hess to reject the newly presented claim language.)

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S Felten whose telephone number is (703) 305-0724. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DSF

February 16, 2005

Daniel S Felten
Examiner
Art Unit 3624

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

